

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

John Ceralde

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Fernando I. Rivera, Esq., Console Mattiacci Law,
1525 Locust Street, 9th Fl., Philadelphia, PA 19102
215-545-7676

DEFENDANTS

The Trustees of The University of Pennsylvania, and The University of Philadelphia

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. § 621 ; 43 P.S. § 951; Phila. Code § 9-1101

Brief description of cause:

Plaintiff was discriminated and retaliated against based on his age in violation of local, state, and federal law.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
in excess of \$75,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/03/2021

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Elkins Park, PA 19027
Address of Defendant: 3451 Walnut Street Philadelphia, PA 19104
Place of Accident, Incident or Transaction: Philadelphia, PA

RELATED CASE, IF ANY:

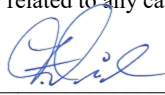
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 09/03/2021


Attorney-at-Law / Pro Se Plaintiff

319009

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input type="checkbox"/> | 6. Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |

(Please specify): _____

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |

(Please specify): _____

ARBITRATION CERTIFICATION


(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Fernando I. Rivera, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 09/03/2021


Attorney-at-Law / Pro Se Plaintiff

319009

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

John Ceralde	:	CIVIL ACTION
	:	
v.	:	
	:	
The Trustees of The University of Pennsylvania, et al.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

09/03/2021

Date

215-545-7676

Telephone



Attorney-at-law

215-689-4137

FAX Number

Plaintiff, John Ceralde

Attorney for

rivera@consolelaw.com

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN CERALDE
Elkins Park, PA 19027

Plaintiff,

v.

**THE TRUSTEES OF THE UNIVERSITY:
OF PENNSYLVANIA**
3451 Walnut Street
Philadelphia, PA 19104

and,

**THE UNIVERSITY OF
PHILADELPHIA**
235 South 33rd Street
Philadelphia, PA 19104

Defendants.

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT

I. INTRODUCTION

Plaintiff, John Ceralde (“Plaintiff”), brings this action against Defendants, the Trustees of the University of Pennsylvania, and the University of Pennsylvania (collectively, “Defendants”), for unlawful age discrimination and retaliation in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.* (“ADEA”), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”); and the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1101, *et seq.* (“PFPO”). Plaintiff seeks damages, including back pay, front pay, compensatory, liquidated damages, punitive damages, attorneys’ fees and costs, and all other relief that this Court deems appropriate.

II. PARTIES

1. Plaintiff is an individual and a citizen of Pennsylvania.

2. Plaintiff was fifty-eight (58) years of age at the time of his termination from Defendants.

3. Defendant the Trustees of the University of Pennsylvania is a non-profit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with a principal place of business in Philadelphia, PA.

4. Defendant the University of Pennsylvania is a non-profit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with a principal place of business in Philadelphia, PA.

5. Defendants engage in an industry affecting interstate commerce that regularly does business in Pennsylvania and with entities and individuals in Pennsylvania, including, but not limited to, employing residents of Pennsylvania.

6. At all times material hereto, Plaintiff worked out of Defendants' main campus in Philadelphia, PA.

7. At all times material hereto, Defendants acted by and through their authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendants and in furtherance of Defendants' business.

8. At all times material hereto, Defendant acted as an "Employer" within the meaning of the statutes that form the basis of this matter.

9. At all times material hereto, Plaintiff was an “Employee” of Defendant within the meaning of the statutes that form the basis of this matter.

III. JURISDICTION AND VENUE

10. The causes of action that form the basis of this matter arise under the ADEA, the PHRA, and the PFPO.

11. The District Court has jurisdiction over Count I (ADEA) pursuant to 28 U.S.C. § 1331.

12. The District Court has jurisdiction over Count II (PHRA) pursuant to 28 U.S.C. § 1367.

13. The District Court has jurisdiction over Count III (PFPO) pursuant to 28 U.S.C. § 1367.

14. Venue is proper in this District Court pursuant to 28 U.S.C. § 1391(b).

15. On or about December 4, 2020, Plaintiff filed a Complaint of Discrimination with the Pennsylvania Human Relations Commission (“PHRC”) and Equal Employment Opportunity Commission (“EEOC”) complaining of the acts of discrimination alleged herein (the “Complaint of Discrimination”). Attached hereto, incorporated herein, and marked as Exhibit A is a true and correct copy of Plaintiff’s Complaint of Discrimination (with personal identifying information redacted).

16. On June 8, 2021, the EEOC issued Plaintiff a Notice of Right to Sue regarding his Complaint of Discrimination. Attached hereto, incorporated herein, and marked as Exhibit B is a true and correct copy of this notice.

17. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. FACTUAL ALLEGATIONS

18. Plaintiff was hired by Defendants on or about September 1, 2001.

19. At the time of his termination, Plaintiff held the position of Head Coach of the Women's Gymnastics team.

20. At the time of his termination, Plaintiff reported directly to Lauren Procopio ("Procopio") (approximately 32 years old at the time), Assistant Athletic Director; Procopio reported to Rudy Fuller ("Fuller") (approximately 50 years old at the time), Senior Associate Athletic Director, and Fuller reported to Grace Calhoun ("Calhoun") (approximately 50 years old at the time), Athletic Director.

21. At the time of his termination, Plaintiff was the oldest employee reporting directly to Procopio.

22. In or around July of 2018, certain of Plaintiff's job duties and responsibilities were removed and assigned to Kirsten Strausbaugh Becker ("Becker") (approximately 27 years old at the time), Assistant Coach, and Brittney Williams Miller ("Miller") (approximately 30 years old at the time), Volunteer Assistant Coach.

23. Defendant's stated reason for removing some of Plaintiff's job duties and responsibilities in July of 2018 was that Assistant Coaches were complaining that Plaintiff's style was "outdated."

24. Plaintiff was more qualified to perform his job duties and responsibilities than Becker and Miller, who were substantially younger employees.

25. In or around July of 2018, while Plaintiff was still reporting to Scott Ward ("Ward") (approximately 45 at the time), Senior Associate Director and Chief of Operations,

Ward instructed Plaintiff to take a step back from coaching because the “Assistant Coaches should do the coaching” (or words to that effect).

26. In or around September of 2018, Plaintiff began reporting directly to Procopio.

27. Plaintiff was the oldest employee reporting directly to Procopio in September of 2018.

28. Upon reporting to Procopio, Procopio began excluding Plaintiff from meetings and discussions to which he used to be required to participate in.

29. Upon reporting to Procopio, Procopio began discussing items with Plaintiff’s direct reports that should have involved him, including, but not limited to, conducting player mental wellness evaluations, and holding staff meetings.

30. In or around September of 2018, Plaintiff’s direct reports began circumventing Plaintiff’s authority and discussing items directly with Procopio that should have been addressed with Plaintiff.

31. Throughout 2018, Assistant Coaches and student-athletics would comment to Plaintiff that he was “old school.”

32. Throughout 2018, Assistant Coaches and student-athletics would comment to Plaintiff that his techniques were “old.”

33. Throughout 2018, Assistant Coaches and student-athletics would comment to Plaintiff that coaches and student-athletics should not listen to him.

34. On or about July 11, 2019, without any warning or notice, in a meeting with Procopio, Fuller, and Ufuoma Pela (“Pela”) (approximately 45 at the time), Associate Director and Human Resources, Plaintiff was placed on a Performance Improvement Plan (the “PIP”).

35. Plaintiff’s performance did not warrant the issuance of the PIP.

36. The PIP contained false statements and misrepresentations related to his performance.

37. Defendants' stated reason for placing Plaintiff on a PIP was that coaches and students were complaining about him.

38. During the meeting in which he was issued the PIP, Plaintiff complained to Procopio, Fuller, and Pela that felt he was being discriminated against because of his age.

39. Specifically, Plaintiff complained to Procopio, Fuller, and Pela that assistant coaches and student-athletics were commenting that he was "old school," that his techniques were "old," and that his style was "outdated."

40. During the meeting in which he was issued the PIP, Plaintiff asked Procopio to investigate his complaints of age discrimination.

41. Defendants failed to remedy or prevent the age discrimination against Plaintiff.

42. Defendants failed to investigate Plaintiff's complaints of age discrimination.

43. On July 14, 2019, in an email to Procopio, Fuller, and Pela, Plaintiff again expressed his concerns that the PIP was discriminatory and that he felt he was being performance managed out due to his age.

44. Defendants failed to remedy or prevent the age discrimination against Plaintiff.

45. Defendants failed to investigate Plaintiff's complaints of age discrimination.

46. On August 13, 2019, in a meeting with Calhoun, Plaintiff complained of age discrimination in connection with the PIP and how he was being treated.

47. Specifically, Plaintiff complained that he believed that Defendants were pushing Plaintiff out because of his age in order hire younger employees.

48. In response, Calhoun told Plaintiff to focus on coaching.

49. Defendants failed to remedy or prevent the age discrimination against Plaintiff.

50. Defendants failed to investigate Plaintiff's complaints of age discrimination.

51. On January 11, 2020, the PIP period ended.

52. At the conclusion of the PIP period, Plaintiff was told that he met the requirements of the PIP and that the PIP was being lifted.

53. On March 19, 2020, in a meeting with Fuller and Pela, Plaintiff was notified that Defendants would not be renewing Plaintiff's contract and that his employment would be terminated effective June 30, 2020 (the "Termination Meeting").

54. Defendants' stated reason for terminating Plaintiff was that Defendants were moving in a different direction.

55. During the Termination Meeting, in response to Plaintiff's questions regarding his termination, Fuller stated that "there were some complaints"; Pela interrupted Fuller before he could finish his statement.

56. During the Termination Meeting, in response to Plaintiff's questions regarding complaints made against him, Fuller started to Plaintiff that, "this has nothing to do with your age."

57. Defendants replaced Plaintiff with Becker, who was previously reporting to Plaintiff.

58. Plaintiff was more qualified to perform as Head Coach than Becker, who was less qualified and substantially younger than Plaintiff, and did not engage in protected activity.

59. Plaintiff's age (58) was a motivating and/or determinative factor in Defendants' discriminatory treatment of Plaintiff, including the hostile work environment to which he was subjected, and his termination.

60. Plaintiff's complaints of age discrimination were determinative and/or motivating factors in Defendants' retaliatory treatment of Plaintiff, including his termination.

61. The discriminatory and retaliatory conduct of Defendants, as alleged herein, was severe and/or pervasive enough to make a reasonable person believe that the conditions of employment had been altered and that a hostile work environment existed, and made Plaintiff believe that the conditions of employment had been altered and that a hostile work environment existed.

62. Defendants failed to prevent or address the discriminatory and retaliatory conduct referred to herein and further failed to take corrective and remedial measures to make the workplace free of discriminatory and retaliatory conduct.

63. The retaliatory actions taken against Plaintiff after he complained of discriminatory conduct would have discouraged a reasonable employee from complaining about discrimination.

64. As a direct and proximate result of the discriminatory conduct of Defendants, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

65. Defendants acted with malice and/or reckless indifference to Plaintiff's protected rights and warrants the imposition of punitive damages.

66. The conduct of Defendants, as set forth above, was willful under the circumstances and warrants the imposition of liquidated damages.

67. No previous application has been made for the relief requested herein.

COUNT I
(VIOLATION OF THE ADEA)

68. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

69. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendant violated the ADEA.

70. Defendant's violation of the ADEA was intentional and willful under the circumstances, warranting the imposition of liquidated damages.

71. As a direct and proximate result of Defendant's violation of the ADEA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

72. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

73. No previous application has been made for the relief requested herein.

COUNT II
(VIOLATION OF THE PHRA)

74. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

75. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendant violated the PHRA.

76. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

77. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

78. No previous application has been made for the relief requested herein.

COUNT III
(VIOLATION OF THE PFPO)

79. Plaintiff incorporates the paragraphs above as if set forth herein in their entirety.

80. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendants have violated the PFPO.

81. Defendants acted willfully and intentionally, and with malice and/or reckless indifference to Plaintiff's rights, thereby warranting the imposition of punitive damages.

82. As a direct and proximate result of Defendants' violation of the PFPO, Plaintiff has sustained the injuries, damages and losses set forth herein and has incurred attorneys' fees and costs.

83. Plaintiff is now suffering and will continue to suffer the irreparable injury and monetary damages as a result of Defendants' discriminatory and unlawful acts unless and until this Court grants the relief requested herein.

84. No previous application has been made for the relief requested herein.

RELIEF

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendants' unlawful conduct, and specifically prays that the Court grant the following relief to the Plaintiff by:

- a. declaring the acts and practices complained of herein to be a violation of the ADEA, the PHRA, and the PFPO;

- b. enjoining and restraining permanently the violations alleged herein;
- c. awarding Plaintiff damages for back pay, front pay, and pre- and post-judgment interest;
- d. awarding compensatory damages to Plaintiff for past and future emotional distress and pain and suffering under the PHRA;
- e. awarding liquidated damages under the ADEA;
- f. awarding punitive damages under the PFPO;
- g. awarding Plaintiff the costs of this action, together with reasonable attorneys' fees;
- h. awarding Plaintiff such other damages as are appropriate under the ADEA, the PHRA, and the PFPO; and
- i. granting such other and further relief as this Court deems appropriate.

Respectfully submitted,

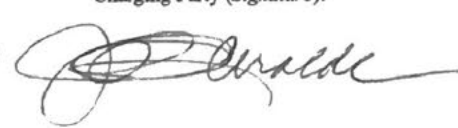
CONSOLE MATTIACCI LAW, LLC

By: /s/ Fernando I. Rivera
FERNANDO I. RIVERA, ESQ.
1525 Locust Street
Philadelphia, PA 19102
rivera@consolelaw.com (email)
(215) 545-7676 (office)
(856) 545-8211 (fax)

Dated: 9/3/2021

Attorneys for Plaintiff

Exhibit A

CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See privacy statement before consolidating this form.			
STATE OR LOCAL AGENCY: <u>Pennsylvania Human Relations Commission;</u> <u>Philadelphia Commission on Human Relations</u>			
NAME (Indicate Mr., Ms., Mrs.) John Ceralde		HOME TELEPHONE NUMBER (Include Area Code) [REDACTED]	
STREET ADDRESS [REDACTED]	CITY, STATE AND ZIP [REDACTED]	DATE OF BIRTH [REDACTED]	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP, COMMITTEE, STATE OF LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST ME (If more than one than list below)			
NAME University of Pennsylvania; Trustees of University of Pennsylvania	NUMBER OF EMPLOYEES, MEMBERS > 20	TELEPHONE (Include Area Code) (215) 898-5000	
STREET ADDRESS 235 South 33rd Street	CITY, STATE AND ZIP Philadelphia, PA 19104	COUNTY Philadelphia	
CAUSE OF DISCRIMINATION (Check appropriate box(es)) <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Sex <input type="checkbox"/> Religion <input type="checkbox"/> National Origin <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Other (Specify)		DATE DISCRIMINATION TOOK PLACE Earliest _____ Latest 06/30/2020	
<u>The Particulars Are:</u>			
A. 1. Relevant Work History			
<p>I was hired by Respondent on or about September 1, 2001. I last held the position of Head Coach for the Women's Gymnastics. I last reported to Lauren Procopio (32^a), Assistant Athletic Director. Procopio reported to Rudy Fuller (50), Senior Associate Athletic Director. Fuller reported to Grace Calhoun (50), Athletic Director.</p> <p>Respondent subjected me to a hostile work environment because of my age and/or my age discrimination complaints. Respondent terminated my employment because of my age and/or my age discrimination complaints. I was age fifty-eight (58) with more than nineteen (19) years of service at Respondent. Respondent replaced me with a less qualified, noncomplaining, substantially younger employee who had been reporting to me.</p> <p>I demonstrated positive performance and dedication to Respondent. I performed my duties in a highly competent manner.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures		NOTARY - (when necessary for State and Local Requirements) I swear of affirm that I have read the above charge and that it is true to the best of my knowledge information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.			
Date: 12/3/2020 Charging Party (Signature): 		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day Month, and year)	

EEOC Charge of Discrimination

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Initials of Charging Party - 

2. Harm Summary

I have been discriminated against because of my age (58) and retaliated against because of my age discrimination complaints. Evidence of the discriminatory and retaliatory conduct to which I have been subjected includes, but is not limited to, the following.

- (a) Before reporting to Procopio, I reported to Scott Ward (45), Senior Associate Director, Chief of Operations.
- (b) I was, to my knowledge, the oldest employee reporting to Ward.
- (c) In or about July 2018, certain of my job duties and responsibilities were removed from me and assigned to Kirsten Strausbaugh Becker (27), Assistant Coach, and Brittney Williams Miller (30), Volunteer Assistant Coach. The stated reason was that Assistant Coaches were complaining that my style was "outdated." I was more qualified to perform my job duties and responsibilities than the substantially younger employees to whom they were assigned.
- (d) In or about July 2018, Ward instructed me to take a step back from coaching. The stated reason was that the Assistant Coaches should do the coaching.
- (e) In or about September 2018, I began reporting to Procopio.
- (f) I was the oldest employee reporting to Procopio.
- (g) Procopio excluded me, circumvented me, undermined me, and discussed with my direct reports items that should have involved me.
- (h) My direct reports circumvented me and discussed with Procopio items that should have involved me.
- (i) Employees and students commented that I was "old school."
- (j) Employees and students commented that my techniques were "old."
- (k) Employees and students commented that coaches and students should not listen to me.
- (l) On or about July 11, 2019, in a meeting with Procopio, Fuller, and Ufuoma Pela (45), Associate Director, Human Resources, I was placed on a Performance Improvement Plan ("PIP"). My performance did not warrant a PIP. The PIP contained false statements and misrepresentations. The stated reason for placing me on a PIP was that coaches and students were complaining about me. I complained that I was being discriminated against because of my age. I complained that employees were commenting that I was "old school," that my techniques were "old," and that my style was "outdated."
- (m) On July 14, 2019, in an email to Procopio, coping Pela and Fuller, I expressed my concerns about the PIP, and complained that I felt I was "being performance managed out due to my age."
- (n) Respondent failed to remedy or prevent the age discrimination against me.
- (o) Respondent failed to investigate my age discrimination complaints.

EEOC Charge of Discrimination

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Initials of Charging Party - 

- (p) I complied with the terms of the PIP.
- (q) On August 13, 2019, in a meeting with Calhoun, I complained of age discrimination in connection with the PIP and how I was being treated. I complained that I believed that Respondent was pushing me out because of my age in order hire younger employees. I complained that I felt I was being forced out because of my age. Calhoun told me to focus on coaching.
- (r) Respondent failed to remedy or prevent the age discrimination against me.
- (s) Respondent failed to investigate my age discrimination complaints.
- (t) On January 11, 2020, my PIP ended.
- (u) On March 19, 2020, in a meeting with Fuller and Pela, Respondent did not renew my contract and terminated my employment, effective June 30, 2020. The stated reason was that Respondent was moving in a different direction. Fuller stated that there were some complaints. Pela interrupted Fuller and stated that this had nothing to do with my age.
- (v) Respondent terminated my employment because of my age.
- (w) I had no opportunity to remain employed with Respondent.
- (x) Respondent replaced me with Kirsten Strausbaugh Becker (27), who had been reporting to me. I was more qualified to perform my position than the less qualified, noncomplaining, substantially younger employee with whom I was replaced.
- (y) Respondent's age discriminatory and retaliatory comments and conduct have caused me emotional distress.

B. 1. Respondent's Stated Reasons

- (a) Respondent has not offered any explanation for subjecting me to a hostile work environment because of my age and/or my age discrimination complaints.
- (b) Respondent's stated reason for terminating my employment, that Respondent was moving in a different direction, is pretext for age discrimination and/or retaliation for complaining of age discrimination.

C. 1. Statutes and Bases for Allegations

I believe that Respondent has discriminated against me based on my age (58) and retaliated against me because of my age discrimination complaints in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 623 *et seq.* ("ADEA"), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA"), and the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1101, *et seq.* ("PFPO"), as set forth herein.

INFORMATION FOR COMPLAINANTS & ELECTION OPTION
TO DUAL FILE WITH THE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

**John Ceralde v. University of Pennsylvania;
Trustees of University of Pennsylvania**

EEOC No. _____

You have the right to file this charge of discrimination with the Pennsylvania Human Relations Commission (PHRC) under the Pennsylvania Human Relations Act. Filing your charge with PHRC protects your state rights, especially since there may be circumstances in which state and federal laws and procedures vary in a manner which would affect the outcome of your case.

Complaints filed with the PHRC must be filed within 180 days of the act(s) which you believe are unlawful discrimination. If PHRC determines that your PHRC complaint is untimely, it will be dismissed.

If you want your charge filed with the PHRC, including this form as part of your EEOC charge, with your signature under the verification below, will constitute filing with the PHRC. You have chosen EEOC to investigate your complaint, so PHRC will not investigate it and, in most cases, will accept EEOC's finding. If you disagree with PHRC's adoption of EEOC's finding, you will have the chance to file a request for preliminary hearing with PHRC.

Since you have chosen to file your charge first with EEOC, making it the primary investigatory agency, the Respondent will not be required to file an answer with PHRC, and no other action with PHRC is required by either party, unless/until otherwise notified by PHRC.

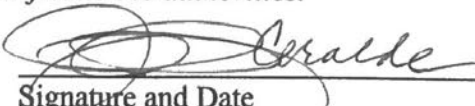
If your case is still pending with PHRC after one year from filing with PHRC, you have the right to file your complaint in state court. PHRC will inform you of these rights and obligations at that time.

[Sign and date appropriate request below]

X I want my charge filed with PHRC. I hereby incorporate this form and the verification below into the attached EEOC complaint form and file it as my PHRC complaint. I request EEOC to transmit it to PHRC.

X I understand that false statements in this complaint are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

X


Signature and Date

12/3/2020

____ I do not want my charge dual filed with PHRC

Signature and Date

Exhibit B

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **John Ceralde**From: **Philadelphia District Office
801 Market Street
Suite 1000
Philadelphia, PA 19107**☐*On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.

EEOC Representative

Telephone No.

530-2021-00972**Legal Unit,
Legal Technician****(267) 589-9700****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐Other (*briefly state*)**- NOTICE OF SUIT RIGHTS -***(See the additional information attached to this form.)*

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

June 8, 2021



Enclosures(s)

**Dana R. Hutter,
Deputy Director**

(Date Issued)

cc:

Helen Logan
Sr. Admin of Legal Services
UNIVERSITY OF PENNSYLVANIA
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